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# MULTIMEDIA UNIVERSITY

## FINAL EXAMINATION

TRIMESTER 1, 2017/2018

### ULS2612 – LAW OF SUCCESSION (All Sections / Groups)

12<sup>th</sup> OCT 2017

Reading Time : 2.30 p.m. – 2.45 p.m.  
(15 Minutes)

Answering Time: 2.45 p.m. – 5.45 p.m.  
(3 Hours)

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#### INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 5 Questions only. Answer **ALL** questions in **PART A** and **ONE (1)** question in **PART B**.
3. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
  - i. Wills Act 1959 (Act 346);
  - ii. Probate & Administration Act;
  - iii. Inheritance (Family Provision) Act 1971 & Distribution Act 1958;
  - iv. Small Estates ( Distribution Act 1955;

Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided.

**PART A : ANSWER ALL QUESTIONS.****QUESTION 1**

The Inheritance (Family Provision) Act, provides for a discretionary jurisdiction as opposed to a fixed rights jurisdiction.

Certain persons can apply to the court for provision to be made for them out of the deceased's estate, on the grounds that the will does not make reasonable provision for them. Application can also be made on the same grounds where the testator died intestate or where there is partial intestacy.

The court has wide powers to make orders in favour of applicants out of the deceased's estate, but must have regard to a number of factors, both general and specific, in determining whether reasonable provision has been made for the applicant and, if not, what that provision should be.

With reference to the relevant authorities, discuss the provisions available to dependants of the deceased if the deceased has failed to provide financial assistance to the dependants.

(Total: 25 marks)

**QUESTION 2**

Steve, died due to severe stroke. He died intestate, left his wife, Diana, his daughter, Orana, aged 25 married with a son aged 2 years old, his adopted son Trevor aged 20 and his father, Mr. Patrick.

Apart from all the above beneficiaries, Steve had another daughter, Karen who had predeceased him. Karen left her beloved husband Garret with their son, Mike aged 17 years old.

Diana now intends to apply for a Letter of Administration. However, she has doubt as to her rights of entitlement to the Letter of Representation, positions of minority interest of the estate and Steve's money which was kept in Employee Provident Fund (EPF) account. Besides, she also would like to know whether she could dispose off some of the properties to the estate before the Letter of Representation is granted to her since she had already found an interested buyer to buy some of the immovable property listed under estate.

Advise Diana.

(Total: 25 marks)

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**QUESTION 3**

Mr. Chin Chau suffered from senile dementia aggravated by his ill-health. In February 2016, Mr. Chin Chau approached his solicitor, Mr. Good and instructed to prepare the will. Mr. Good received the following instructions:

- i) All children will receive RM50,000.00 each;
- ii) His beloved wife, Ms. Lily will receive their family house, and  $\frac{1}{2}$  share of a rubber estate in Kuala Pilah known as Lot 48 Mukim 3 Selatan;
- iii) Ms. Cantik, his sister, and Mr. Nice will share another  $\frac{1}{2}$  share of a rubber estate in Kuala Pilah known as Lot 48 Mukim 3 Selatan based on 1:1;
- iv) Mr. Nice will be his executor to execute this will;
- v) Residue will be distributed according to the rule of intestacy;

Mr. Good has prepared the will as per the instruction. Mr. Chin Chau executed the will accordingly on 30 May 2016 in the presence of Cik Rama and Cik Kupu in Mr. Good's office.

He died on 25 December 2016 aged 80 years old. He was survived by his son, Band, his daughter, Dung and his wife, Ms. Lily.

Based on the above scenarios, discuss the validity of the will.

(Total: 25 marks)

**PART B : ANSWER ONE (1) OUT OF TWO (2)****QUESTION 4**

“In a will, a person declares his intentions concerning his property. On his death his wishes are carried out as far as it is legally possible. A will is ambulatory and takes effect only upon the testator’s death and until that time a testator is free to alter or revoke it.”  
(Sidhu, 2005)

With reference to the relevant authorities, explain the numerous ways to revoke a will.

(Total: 25 marks)

...Continued

**QUESTION 5**

By Clause 15 of Ms. Testatrix's Will, she directed that her executors and trustees should:-

"within 6 months of the impending marriage of my daughter, Ruby, pay to her guardians the sum of RM10,000.00 to be expended by them in their discretion on the expenses in connection with such marriage, and if only part of the said sum of RM10,000.00 shall be expended by her guardians, I direct that the balance thereof shall be paid to the said Ruby on her weeding day for her sole use".

Ms. Testatrix had previously by Clause 10, given to Ruby, legacies of RM20,000.00. Ruby was in fact married during the lifetime of the Ms. Testatrix and she paid all Ruby's marriage expenses which amounted to RM9,500.00.

Answer all the questions:

(a) Advise Ruby. (10 marks)

(b) Will your answer in (a) be different if Ms. Testatrix was adjudged bankrupt before she died? (10 marks)

(c) Will your answer in (a) be different if Ruby pre-deceased Ms. Testatrix? (5 marks)

(Total: 25 marks)

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